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UNITED STATES PATENT AND TRADEMARK OFFICE
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William J. Hone
FISH & RICHARDSON
45 Rockefeller Plaza, Suite 2800
New York, N.Y. 10111

In re Application of: GENNARO, Maria, et al. :
U.S. Application No.: 10/009,384 :
PCT No.: PCT/US00/12197 :
International Filing Date: 04 May 2000 : DECISION ON RENEWED
Priority Date: 04 May 1999 : PETITION UNDER 37 CFR
Attorney's Docket No.: 07763-0420011 : 1.47(a) AND FEE REFUND
For: SECRETED PROTEINS OF *MYCOBACTERIUM* : REQUEST
TUBERCULOSIS AND THEIR USE AS :
VACCINES AND DIAGNOSTIC REAGENTS :

This decision is issued in response to applicants' "Response To Decision On Petition Under 37 CFR 1.47(a)" filed 26 January 2004. No petition fee is required.

BACKGROUND

The procedural background for this application is set forth in detail in the decision mailed by this Office on 18 December 2003. In that decision, applicants' petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of co-inventor Manuel J. Gomez was dismissed without prejudice. Pursuant to the decision, applicant was also charged an additional \$305 for the basic national fee (bringing applicants total payment from \$50 to \$355).

On 04 June 2002, applicant filed the "Response To Decision On Petition" considered herein. The Response included a declaration executed by the previously non-signing inventor Manuel J. Gomez. The Response also includes a request for a refund of the \$305 fee charged pursuant to the previous decision, arguing that the \$50 basic national fee was appropriate herein.

DISCUSSION

As noted above, the Response was accompanied by a copy of the declaration of inventors executed by Manuel J. Gomez, the non-signing inventor who was the subject of the earlier petition under 37 CFR 1.47. Accordingly, applicants' petition under 37 CFR 1.47 is now moot.

Applicants had earlier submitted copies of the declaration executed by the other co-inventor. Applicants have therefore now submitted a fully executed declaration in compliance with 37 CFR 1.497(a) and (b).

With respect to the the refund request, applicants have enclosed a copy of the IPER issued by the IPEA/US after the filing of the national stage application. The IPER finds that all the claims are acceptable under PCT Article 33. Under these circumstances, applicants refund request is appropriately granted

CONCLUSION

Applicants' petition under 37 CFR 1.47 is **MOOT**.

Applicants' refund request is **GRANTED**. Deposit Account No. 06-0150 will be credited with a refund of \$305.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 January 2004.



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office

Telephone: (703) 308-6155
Facsimile: (703) 308-6459